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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,031	08/01/2003	Philip E. Eggers	NET 2-040-3	4698

7590 01/18/2005
Gerald L. Smith
Mueller and Smith, LPA
7700 Rivers Edge Drive
Columbus, OH 43235

EXAMINER

COHEN, LEE S

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicati n No. 10/633,031	Applicant(s) EGGERS ET AL.	
	Examin r Lee S. Cohen	Art Unit 3739	

-- Th MAILING DATE of this communication app ars on the cover sh et with th correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13,31-57,60 and 61 is/are allowed.
- 6) ☒ Claim(s) 1-12,14-30,58,59 and 62-64 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12, 14-30, 58, 59, and 62-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 – “said electrosurgical frequency” in line 8 is vague since it lacks a prior recital in the claim. Claim 14 – references to “said monitor signal” in line 5 and “said program control signal” in line 9 are vague as plural such signals have been previously recited. Claim 15 – reference to “said program control signal” in line 2 is vague as plural such signals have been previously recited. Claim 16 – “said d.c. link voltage amplitude” in line 2 lacks antecedent basis. Claim 18 – reference to “said program control signal” in line 2 is vague as plural such signals have been previously recited. Claim 22 – reference to “said program control signal” in lines 2 and 3 are vague as plural such signals have been previously recited. Claim 24 is vague as a step of monitoring a select electrical parameter has not been recited; a power monitor signal has been previously provided; and “said monitor signal” in line 5 and “said program control signal” in the last line lack clear antecedents. Claim 25 – reference to “said program control signal” in line 2 is vague as plural such signals have been previously recited. Claim 29 – reference to “said program control signal” in lines 2 and 3 are vague as plural such signals have been previously recited. Claim 42 – “said first inverter” in line 3 lacks antecedent basis. Claim 47 – “valve” should read --value--. Claim 58 – the high voltage monitor has been previously set forth in claim 41. Claim 59 – the high voltage current monitor has been previously

Art Unit: 3739

set forth in claim 41. Claim 62 – the high voltage monitor has been previously set forth in claim 41.

Allowable Subject Matter

Claims 13, 31-57, 60, and 61 are allowed.

Claims 1-12, 14-30, 58, 59, and 62-64 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim Objections

Claims 13, 14, and 46 are objected to because of the following informalities: Claim 13 ends in a semicolon, claim 14, line 3 – “e” is vague, and claim 46 – “valve’ should be --value--. Appropriate correction is required.

Specification

The disclosure is objected to because of the following informalities: The cross-reference to the parent application should be updated as should the reference to the copending application at page 8.

Appropriate correction is required.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited as in the parent application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

Art Unit: 3739

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lee S. Cohen
Primary Examiner
Art Unit 3739

LSC
January 13, 2005